THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25956 OF 2005

DATED 26th OCTOBER, 2006

BETWEEN

Sandrana Chinnathalamma and others

… Petitioners

and

The District Collector, Visakhapatnam and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25956 OF 2005

ORDER:

The writ petition is filed seeking a writ of Mandamus declaring the action of the second respondent in proposing to allot the petitioners' land in survey No.33/10 in an extent of Acs.0.08 cents of Akkireddipalem villge, Gajuwaka Mandal to respondents 3 to 5, as illegal, arbitray and violative of Article 300-A of Constitution of India. He also seeks a consequential direction to second respondent not to dispossess the petitioner. Though interlocutory matters are listed, the matter is heard finally and is being disposed of by this order.

The first petitioner is wife of Pydithalli and petitioners 2 to 4 are her sons. It is the case of the petitioners that Pydithalli and his brothers purchased land admeasuring Acs.2.50 cents in survey No.33/10 and some time, thereafter, they partitioned among them. Pydithalli got an extent of Acs.0.87 cents. After disposing of some of the land, he was allegedly in possession of Acs.8.00 cents of land. After death of their predecessor, the petitioners allege that, they were in possession of the land. It is further alleged that the respondents 3 to 5 made an application to the Government for allotment of land under G.O.Ms.No.455, dated 29.07.2002, and the Government is taking steps to allot the land to the contesting respondents. Therefore, they filed the present writ petition.

The third respondent filed counter affidavit denying the right and title of the petitioners to the subject land. It is his case that the property claimed by the petitioner and the property in possession of the third respondent in survey No.33/10B (part) of Ankireddipalem are different with specific boundaries and the petitioners have no claim for the same. It is the further case that third respondent has been living on the land even prior to 1991, and therefore, considering the application made by him, Government issued orders in G.O.Ms.No.68, dated 21.01.2005, allotting the land to him. The third respondent also annexed copy of the order passed by the Government in his favour along with the counter affidavit.

This matter initially came up before this Court on 12.10.2006. At

the request made by the counsel for the petitioners, the matter was adjourned to enable necessary amendment to the writ petition. So far, no such amendment is filed.

The Government already passed orders in favour of third respondent. This Court is of considered opinion that the prayer made in the writ petition has become infructuous. However, it shall be open to the petitioners to challenge the order of the Government in G.O.Ms.No.68, Revenue (UC.I) Department, 21.01.2005, subject to, of course, the question of delay and laches and other grounds.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

26.10.2006.
pln